

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 1999-176-C - ORDER NO. 1999-572

AUGUST 11, 1999

IN RE: Application of Navigator Telecommunications,) ORDER GRANTING
LLC for a Certificate of Public Convenience) AUTHORITY TO
and Necessity to Provide Local Exchange) PROVIDE LOCAL
Telecommunications Services in South) SERVICES
Carolina.)

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of Navigator Telecommunications, LLC ("Navigator" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide local exchange telecommunications services within the State of South Carolina. The Application was filed pursuant to S.C. Code Ann. § 58-9-280 and the Regulations of the Commission.

By letter, the Commission's Executive Director instructed the Company to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. Navigator complied with this instruction and provided the Commission with proof of publication of the Notice of Filing.

A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC"). On June 1, 1999, Counsel for SCTC filed with the Commission a Stipulation

in which Navigator stipulated that it would seek authority only in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until the Company provided written notice of its intent prior to the date of the intended service. Navigator also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. Navigator agreed to abide by all State and Federal laws and to participate to the extent that it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The SCTC withdrew its opposition to the granting of a statewide Certificate of Public Convenience and Necessity provided the conditions contained in the Stipulation are met. The Stipulation is approved and attached as Order Exhibit 1.

A hearing was commenced on July 28, 1999, at 10:30 a.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. Navigator was not represented by counsel. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Louis F. McAlister, Jr., President and CEO of Navigator, appeared and testified in support of Navigator's application. The record reveals that Navigator is a limited liability company organized under the laws of the State of Arkansas. According to Mr. McAlister, the Company is currently certified to provide basic local exchange telecommunications services in nine states and is currently operating in those states. The Company plans to offer a full range of telecommunications services legally permissible to local exchange providers using facilities to be owned or leased by Navigator. Mr.

McAlister stated that Navigator initially intends to offer basic local exchange telecommunications services in the areas of the state currently served by BellSouth and further stated the Company plans to provide its services to residential and business customers. Mr. McAlister also testified Navigator has never been the subject of any state or federal regulatory authority nor has the Company been fined by any state or federal regulatory body. In addition, Mr. McAlister's testimony indicates the Company will operate in accordance with Commission rules, regulations, guidelines, and Commission Orders.

Mr. McAlister described the managerial, technical, and financial resources of Navigator. According to Mr. McAlister, Navigator has ample capital to provide the services for which authority is requested. Navigator is currently providing services in the states where it has authority, and Mr. McAlister stated that Navigator's financial condition provides the Company with more than enough financial capability to serve customers in South Carolina. Mr. McAlister described the Company's management and technical team and stated that the team collectively has nearly 100 years of experience and expertise in the telecommunications industry. Mr. McAlister stated that he served 19 years at Southwestern Bell with positions in engineering, operations, sales, customer service, and marketing and also spent three years at Bell Communications Research in systems design and operations strategic planning. Mr. McAlister also testified that Navigator will rely on the technical skills and expertise of its underlying carriers

Mr. McAlister offered that approval of Navigator's application will further the public interest by expanding the availability of technologically advanced

telecommunications facilities and services. Additionally, Navigator's presence in the market will afford consumers additional choice and will further the service options available to the citizens of South Carolina.

Mr. McAlister's testimony also reveals Navigator is seeking waivers of the following Commission requirements: (1) Rule 103-631 to publish and distribute local exchange directories; (2) to maintain its books and records in conformance with Generally Accepted Accounting Principals ("GAAP") instead of the Uniform System of Accounts; and (3) to comply with reporting requirements that are not applicable to competitive providers. With regard to the request for a waiver of maintaining books and records in compliance with the Uniform System of Accounts, Mr. McAlister stated that Navigator is currently in the process of switching its books from GAAP to the Uniform System of Accounts and should have the books under the Uniform System of Accounts by the end of the year or early next year.

After full consideration of the applicable law, the Company's Application, and the evidence presented at the hearing, the Commission hereby issues its findings of fact and conclusions of law:

FINDINGS OF FACT

1. The Commission finds Navigator is organized as a limited liability company under the laws of the State of Arkansas and is authorized to conduct business in the State of South Carolina by the Secretary of State.

2. The Commission finds Navigator has the technical, financial, and managerial resources sufficient to provide the services requested. S.C. Code Ann. §58-9-280 (B)(1) (Supp. 1998).

3. The Commission finds Navigator will provide services which will meet the service standards of the Commission. S.C. Code Ann. § 58-9-280(B) (Supp. 1998).

4. The Commission finds that Navigator's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. § 58-9-280(B)(3) (Supp. 1998).

5. The Commission finds that Navigator will support universally available telephone service at affordable rates. S.C. Code Ann. § 58-9-280 (B)(4) (Supp. 1998).

6. The Commission finds that the provision of local exchange service by Navigator "does not otherwise adversely impact the public interest." S.C. Code Ann. § 58-9-280 (B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to Navigator to provide competitive intrastate local exchange services in the non-rural local exchange areas of South Carolina. The terms of the Stipulation between Navigator and SCTC are approved, and adopted as a portion of this Order. Any proposal to provide such service to rural service areas is subject to the terms of the Stipulation.

2. Navigator shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters.

3. Navigator shall, in compliance with Commission regulations, designate and maintain an authorized utility representative who is prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, and tests and repairs. In addition, Navigator shall provide to the Commission in writing the name of the authorized representative to be contacted in connection with general management duties as well as emergencies which occur during non-office hours. Navigator shall file with the Commission the names, addresses, and telephone numbers of those representatives within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, Navigator shall promptly notify the Commission in writing if the representatives are replaced.

4. Navigator is directed to comply with all Commission regulations unless a regulation is expressly waived by the Commission.

5. Navigator shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

6. By its Application, Navigator requested waivers from Commission requirements (1) of publishing a directory and (2) of maintaining its books and records in conformance with the Uniform System of Accounts. The Commission grants waivers for


these two areas. With regard to the request for the waiver of maintaining books and records in accordance with the Uniform System of Accounts, the Commission acknowledges that Navigator is in the process of converting its books and records from GAAP to the Uniform System of Accounts. Navigator is hereby granted a waiver of the requirement to maintain its books and records in accordance with the Uniform System of Accounts until such time as its books and records are brought into compliance with the Uniform System of Accounts. Navigator also requested a waiver of certain reporting requirements not applicable to competitive carriers. The Commission denies the Company's request of waiver of reporting requirements. Navigator is expected and required to make all reporting requirements that the Commission requires of all competitive local providers. Navigator is directed to comply with all Commission regulations unless expressly waived by the Commission.

7. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs Navigator to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number

Association (“SC NENA”) with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, Navigator, shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company’s operations as required by the 911 system.

8. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:



Executive Director

(SEAL)

DOCKET NO. 1999-176-C - ORDER NO. 1999-572
AUGUST 11, 1999
ATTACHMENT A

**INFORMATION OF THE AUTHORIZED UTILITY
REPRESENTATIVES FOR INTEREXCHANGE, LOCAL
AND AOS COMPANIES**

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION
REGULATION 103-612.2.4(b), each utility shall file and maintain with the Commission
the name, title, address, and telephone number of the persons who should be contacted in
connection with Customer Relations/Complaints.

Company Name/DBA Name

Business Address

City, State, Zip Code

Authorized Utility Representative (Please Print or Type)

Telephone Number

Fax Number

E-Mail Address

This form was completed by

Signature

If you have any questions, contact the Consumer Services Department at 803-896-5230

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-176-C

Re: Application of Navigator Telecommunications, LLC)
for a Certificate of Public Convenience and Necessity)
to Provide Local Exchange Telecommunications Services) **STIPULATION**
in the State of South Carolina)
_____)

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and Navigator Telecommunications, LLC ("Navigator") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to Navigator's Application. SCTC and Navigator stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to Navigator, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. Navigator stipulates and agrees that any Certificate which may be granted will authorize Navigator to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. Navigator stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. Navigator stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and until Navigator provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, Navigator acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. Navigator stipulates and agrees that if, after Navigator gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then Navigator will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. Navigator acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained

herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

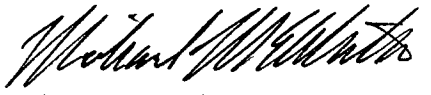
8. Navigator agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

9. Navigator hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

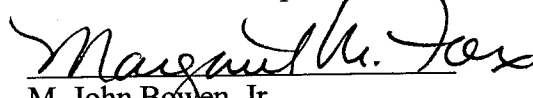
AGREED AND STIPULATED to this 24th day of MAY, 1999.

Navigator Telecommunications, LLC


LOUIS F. McALISTER, JR.
PRESIDENT & CEO


MICHAEL McALISTER
GENERAL COUNSEL
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South Carolina Telephone Coalition:


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(803) 799-9800

Attorneys for the South Carolina
Telephone Coalition

ATTACHMENT A
South Carolina Telephone Coalition Member Companies
for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

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THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-176-C

Re: Application of Navigator Telecommunications, LLC)
for a Certificate of Public Convenience and Necessity)
to Provide Resold Local Exchange Telecommunications)
Services in the State of South Carolina)
_____)

CERTIFICATE OF SERVICE

I, Mia DuRant Briggs, do hereby certify that this day I caused to have served the foregoing Stipulation to the below named party of record, by having same delivered as indicated, this 1st day of June, 1999, and addressed as follows:

U.S. MAIL - FIRST CLASS POSTAGE AFFIXED:

Mr. Michael McAllister
Director of Regulatory Affairs
Navigator Telecommunications, LLC
212 Center Street, Suite 500
Little Rock, Arkansas 72201



Mia DuRant Briggs

Columbia, South Carolina